

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM)
37.104.601, 37.104.604, 37.104.606,)
37.104.610, and 37.104.615 pertaining)
to automated external defibrillators)
)

NOTICE OF AMENDMENT

TO: All Interested Persons

1. On December 20, 2007, the Department of Public Health and Human Services published MAR Notice No. 37-425 pertaining to the public hearing on the proposed amendment of the above-stated rules, at page 2094 of the 2007 Montana Administrative Register, issue number 24.

2. The department has amended ARM 37.104.601, 37.104.604, 37.104.606, and 37.104.610 as proposed.

3. The department has amended the following rule as proposed with the following changes from the original proposal. New matter to be added is underlined. Matter to be deleted is interlined.

37.104.615 MEDICAL PROTOCOL (1) remains as proposed.

(2) The department adopts and incorporates by reference the guidelines for defibrillation referred to in (1), which set ~~standards~~ guidelines for proper defibrillation. A copy of the documents referred to in (1) may be obtained from the American Heart Association at http://cir.ahajournals.org/content/vol112/22/22_suppl/ ~~http://circ.ahajournals.org/content/vol112/24_suppl/~~.

AUTH: 50-6-503, MCA

IMP: 50-6-502, MCA

4. The department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

The department received comments from two individuals on its proposed rule changes pertaining to automated external defibrillator (AED) programs. The two commentors raised a total of four issues, which will be separately addressed.

COMMENT #1: The department received one comment that suggested that the word "standards" in the proposed rules be changed to "guidelines" and that this would be consistent with the terminology the American Heart Association itself uses in their own documents.

RESPONSE: The department agrees with this comment and this change is

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reflected in ARM 37.104.615(2). No other use of the word "standard" appears in the proposed rules.

COMMENT# 2: One comment asked whether AEDs placed in public facilities such as malls, libraries, etc. must meet the requirements of ARM 37.104.604(1)(e) and if they would be required to obtain a medical supervisor.

RESPONSE: Medical supervision for AEDs located in facilities such as malls and libraries is required. Under 50-6-501 through 50-6-606, MCA, all public agencies, departments, offices, boards, commissions, or other governmental organizations and private corporations, partnerships, groups, businesses, or other private organizations are required to register their AED program with the department and to have medical supervision.

COMMENT #3: There was one comment that it is redundant for the department to adopt a reporting requirement in ARM 37.104.606 because the information required to be reported is already relayed to the responding Emergency Medical Services (EMS) provider and is therefore already included within their documentation.

RESPONSE: The department disagrees that collection of this information by the AED entity is already always documented by the EMS provider. Cardiac arrest events can be emotionally charged and the consistent relay of all the required AED data elements to EMS providers may not always occur. Additionally, the AED entities themselves need this documentation for their own performance improvement and for legal purposes.

COMMENT #4: The last comment received was that current technology of the AED is advanced enough that untrained persons can effectively use the AED in an emergency. The commentor then further inquired if these rules then would address this issue beyond the Good Samaritan Act.

RESPONSE: The department disagrees that untrained persons can effectively utilize AEDs. Under the guidelines for AED use with currently existing technology, persons with relatively little training can effectively use an AED. However, training is still needed. The American Heart Association, American Red Cross, and others all strongly recommend that AEDs be operated by trained persons. In addition to properly operating an AED, a responder must know how to recognize the signs of a sudden cardiac arrest, when to activate the EMS system, and how to do CPR. It's also important for operators to receive formal training on the AED model they will use so that they become familiar with the device and are able to successfully operate it in an emergency. Lastly, training also teaches the operator how to avoid potentially hazardous situations.

Under 50-6-505, MCA, persons who provide emergency care or treatment by using an AED in compliance with the statute and the rules adopted by the department are immune from civil liability. Therefore, these rules do not need to address the liability issue since individuals functioning under an entity approved by the department to

conduct an AED program are covered under the Good Samaritan Act.

/s/ Kim Kradolfer
Rule Reviewer

/s/ John Chappuis for
Director, Public Health and
Human Services

Certified to the Secretary of State February 4, 2008.